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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,869	06/14/2005	Yasumasa Watanabe	4706-03	5889
	7590 10/22/2007 NDERHYE PC	EXAMINER		
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR			RABAGO, ROBERTO	
ARLINGTON, VA 22203			ART UNIT	PAPER NUMBER
			1796	
			MAIL DATE	DELIVERY MODE
			10/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/538,869	WATANABE ET AL.		
Examiner	Art Unit		
Roberto Rábago	1796		

	Roberto Rábago	1796	
The MAILING DATE of this communication appe	ears on the cover sheet with the c	orrespondence add	ress
THE REPLY FILED <u>28 September 2007</u> FAILS TO PLACE THI	S APPLICATION IN CONDITION F	OR ALLOWANCE.	
1.  The reply was filed after a final rejection, but prior to or or this application, applicant must timely file one of the follow places the application in condition for allowance; (2) a Notal Request for Continued Examination (RCE) in compliant time periods:	n the same day as filing a Notice of wing replies: (1) an amendment, aff otice of Appeal (with appeal fee) in c	Appeal. To avoid aba fidavit, or other eviden compliance with 37 Cl	ce, which FR 41.31; or (3)
a) $\square$ The period for reply expires $4$ months from the mailing date			
b) The period for reply expires on: (1) the mailing date of this A no event, however, will the statutory period for reply expire I Examiner Note: If box 1 is checked, check either box (a) or TWO MONTHS OF THE FINAL REJECTION. See MPEP 7	ater than SIX MONTHS from the mailin (b). ONLY CHECK BOX (b) WHEN THE 06.07(f).	g date of the final rejection E FIRST REPLY WAS F	on. ILED WITHIN
Extensions of time may be obtained under 37 CFR 1.136(a). The date nave been filed is the date for purposes of determining the period of exunder 37 CFR 1.17(a) is calculated from: (1) the expiration date of the set forth in (b) above, if checked. Any reply received by the Office late may reduce any earned patent term adjustment. See 37 CFR 1.704(b) NOTICE OF APPEAL	tension and the corresponding amount shortened statutory period for reply orig r than three months after the mailing da	of the fee. The appropri inally set in the final Office	ate extension fee be action; or (2) as
2. The Notice of Appeal was filed on A brief in comp filing the Notice of Appeal (37 CFR 41.37(a)), or any exte a Notice of Appeal has been filed, any reply must be filed AMENDMENTS	nsion thereof (37 CFR 41.37(e)), to	avoid dismissal of the	s of the date of e appeal. Since
	but prior to the data of filing a brief	will not be entered by	2001100
3. The proposed amendment(s) filed after a final rejection,  (a) They raise new issues that would require further co  (b) They raise the issue of new matter (see NOTE belo  (c) They are not deemed to place the application in be appeal; and/or  (d) They present additional claims without canceling a	nsideration and/or search (see NO ow); tter form for appeal by materially re corresponding number of finally rej	TE below); educing or simplifying t	
NOTE: (See 37 CFR 1.116 and 41.33(a)).			DTOL 204)
<ol> <li>The amendments are not in compliance with 37 CFR 1.1</li> <li>Applicant's reply has overcome the following rejection(s)</li> </ol>		empliant Amendment (	PTOL-324).
<ul> <li>Newly proposed or amended claim(s) 1-3,5-7,10,13,16 amendment canceling the non-allowable claim(s).</li> </ul>		ted in a separate, time	ely filed
For purposes of appeal, the proposed amendment(s): a) how the new or amended claims would be rejected is pro The status of the claim(s) is (or will be) as follows: Claim(s) allowed: 1-3,5-7,10,13,16 and 17. Claim(s) objected to:  Claim(s) rejected: 8,9,14 and 15. Claim(s) withdrawn from consideration:	☐ will not be entered, or b) ⊠ wivided below or appended.	II be entered and an e	xplanation of
AFFIDAVIT OR OTHER EVIDENCE			
3. The affidavit or other evidence filed after a final action, be because applicant failed to provide a showing of good an was not earlier presented. See 37 CFR 1.116(e).	ut before or on the date of filing a N d sufficient reasons why the affida	otice of Appeal will <u>no</u> vit or other evidence is	t be entered necessary and
The affidavit or other evidence filed after the date of filing entered because the affidavit or other evidence failed to showing a good and sufficient reasons why it is necessar	overcome <u>all</u> rejections under appe	al and/or appellant fai	ls to provide a
10. The affidavit or other evidence is entered. An explanation REQUEST FOR RECONSIDERATION/OTHER	n of the status of the claims after e	ntry is below or attach	ed.
11.  The request for reconsideration has been considered by see attachment.		n condition for allowar	ice because:
12. Note the attached information Disclosure Statement(s).	(PTO/SB/08) Paper No(s)	•	
13. ☐ Other:		•	
	•		
		•	
		•	•

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## **Attachment to Advisory Action**

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- 1. The amendment filed 9/28/2007 is entered, and the rejection of claims 1-3, 5-7, 10, 13, 16 and 17 over Stemke is withdrawn because the reference discloses only methods wherein the step of contacting the polymer with hydroperoxide takes place in solution, with no suggestion of a kneading step. Applicants' specification in the paragraph bridging pages 11-12 has distinguished between three forms of mixing commonly used in the polymer art. The three methods are mechanical mixing as exemplified by use of a Henschel mixer, the second is a method of forming a solution in solvent, and the third is a method of kneading. The reference does not disclose kneading, and the there is no basis for modifying the reference to include kneading because in such a case the solvent would have to be substantially or entirely removed, which would be in direct contravention of the repeated teaching of the reference that the method be performed by dissolving the polymer in a solvent.
- 2. The rejection of claims 8, 9, 14 and 15 over Stemke is maintained for reasons previously set forth because the record contain no basis to conclude that the newly added kneading step in the process portion of these product-by-process claims would confer properties to the resultant polymer which would render the polymers of Stemke outside the claimed scope. Applicants have offered no argument or explanation of how such a step would distinguish the claimed polymers.

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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Roberto Rábago Primary Examiner

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RR

October 19, 2007